

## **LAW AND PUBLIC SAFETY**

### **NEW JERSEY RACING COMMISSION**

#### **Casino Simulcasting**

#### **Proposed Readoption: N.J.A.C. 13:72**

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Executive Director

Authority: Casino Simulcasting Act, N.J.S.A. 5:12-191 et seq., 5:12-210 and 5:5-30

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2008-78\_\_\_\_\_

Submit written comments by May 16, 2008 to:

Michael Vukceovich, Deputy Director  
New Jersey Racing Commission  
P.O. Box 088, 140 East Front Street  
Trenton, New Jersey 08625-0088

The agency proposal follows:

#### **Summary**

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 13:72 is scheduled to expire September 9, 2008. The current rules have been reviewed pursuant to Executive Order No. 66 (1978), and the Commission has found them to continue to be reasonable, necessary, and effective for the purposes for which they were originally promulgated, that is, to regulate the casino simulcasting industry. The Commission, in past years, has acted to keep its rules governing casino simulcasting current. It has proposed various amendments to those rules on an ongoing basis, in response to industry concerns, concerns of the public and as a result of

evolving circumstances. The Commission will continue to review its rules on a regular basis, proposing and adopting amendments as necessary, desirable and as appropriate.

The current rules proposed for readoption have had an advantageous impact on the regulation and conduct of casino simulcasting, industry participants, and racetrack permit holders. The chapter proposed for readoption contains nine subchapters, described as follows:

         Subchapter 1, General Provisions, contains definitions applicable to terms used in Chapter 72 as they are related to casino simulcasting, and incorporates the rules of the Racing Commission in conjunction with the casino simulcasting rules being proposed for readoption.

Subchapter 2, Conduct of Casino Simulcasting, contains rules of general applicability which govern the use of a hub facility, receipt of races from racetracks, the location of the simulcasting facility, the hours of operation, ticket claims and the expiration of pari-mutuel tickets.

         Subchapter 3, Casino Simulcasting Facility, establishes requirements for the actual wagering space, location, conduct of the internal function, and the operation of the casino simulcasting facility within the participating casino property.

Subchapter 4, Pari-Mutuel Pools, establishes requirements and conditions for the placement of pari-mutuel wagers, acceptance of wagers, take-out, cancellation of tickets, refunds, display of wagering odds and the closure or malfunction of equipment in or used by the casino simulcasting facility.

\_\_\_\_\_ Subchapter 5, Licensing of Employees, contains the procedures and fees for licensure of employees of a casino simulcasting facility.

Subchapter 6, Licensing and Registration of Entities and Their Employees, requires all sending racetracks to be licensed or registered with the Commission, as well as the licensure of manufacturers, suppliers and repairers of simulcast wagering equipment, hub facilities and its employees, and any other enterprise transacting business with a casino licensee or hub facility.

Subchapter 7, Reconciliation with Sending Tracks and Payments to Racing Commission, sets forth requirements for the disbursement of funds derived from pari-mutuel wagering to sending tracks, the deposit of funds for outstanding pari-mutuel wagering tickets, and the transmission of underpays and other moneys due to the Commission.

Subchapter 8, Race Information, requires casino simulcasting licensees to provide patrons with accurate race program information.

Subchapter 9, Supervisors of Mutuels and Verifiers, mandates the presence of a Supervisor of Mutuels at a hub facility and sets forth his duties.

The Racing Commission provides for a 60-day comment period on this notice of readoption. Therefore, this notice is exempt from the rulemaking calendar requirement in accordance with N.J.A.C. 1:30- 3.3(a)5.

### **Social Impact**

The rules proposed for readoption provide various procedures, requirements and conditions necessary for the orderly administration and conduct of the casino simulcasting industry and participants therein. The racing industry, with its allowance for wagering, is an industry which affects the public interest and thus requires strong regulation. By its rules, the Racing Commission attempts to keep undesirables and individuals convicted of serious crimes from participation in the sport. The readoption of these rules will assist the Commission in achieving its statutory mandate to provide revenue to the State of New Jersey, to insure the orderly continuation of a racing circuit to maintain and enhance the employment it provides, to provide the public with a recreational opportunity, and to improve the State's competitive position with neighboring jurisdictions where horse racing is permitted.

The implementation of casino simulcasting, pursuant to N.J.S.A. 5:12-191 et seq., has had a beneficial social impact in that it results in the depositing of funds in the Casino Simulcasting Fund to be appropriated for the benefit of horse breeding and development in New Jersey. Additionally, one half of one percent of all moneys wagered on casino simulcasting is to be deposited in the Casino Simulcasting Fund and appropriated exclusively for services to benefit eligible senior citizens. Further, all gross revenues from authorized games which are conducted in casino simulcasting facilities are subject to an eight percent

tax for deposit in the Casino Revenue Fund to be appropriated exclusively for programs to benefit eligible senior citizens and disabled residents of New Jersey. The rules proposed for readoption, in that they enhance these purposes, are considered by the Commission as having a positive social impact.

### **Economic Impact**

\_\_\_\_\_The readoption of the rules will have no anticipated economic impact upon the participants in racing, since the provisions subject of the readoption are currently in effect. However, various economic impacts emanate as a result of the operation of the rules subject of this readoption proposal and an economic impact may arise as a result of monetary fines or the resulting inability to participate in race-related activities.

Any economic impact resulting from casino simulcast wagering is due to the Legislature's decision to authorize the described activities, and not the implementation of these rules. In addition to the funds derived from casino simulcasting which inure to the benefit of eligible senior citizens and disabled residents (as explained above), New Jersey racetracks and horsemen's groups share directly in the revenue from casino simulcasting and indirectly from the increased moneys for purses that result at live race meetings.

Casino licensees have incurred the costs of construction and equipment related to setting up their casino simulcasting facilities. However, the conduct of simulcasting and other permissible gaming in these facilities has generated revenue for casino licensees.

\_\_\_\_\_There are costs associated with licensure or registration, in accordance with the Casino Control Commission rules, by those individuals employed in casino simulcasting, as

well as those enterprises that are subject to license or registration under and pursuant to N.J.S.A. 5:12-191. Additionally, costs associated with licensure or registration by the Racing Commission are incurred by the hub facilities, employees and vendors of the hub facility. Further, the compensation of the Supervisor of Mutuels, an employee or designee of the Racing Commission who is required to be present at the hub facility at all times when casino simulcasting is being conducted, is reimbursed to the Racing Commission by the operator of the hub facility.

#### **Federal Standards Statement**

A Federal standards analysis is not required because the rulemaking requirements of the Racing Commission are dictated by statute, N.J.S.A. 5:5-22, et seq. 5:12-191 et seq. and 5:12-210, and the rules proposed for readoption do not implicate or exceed established Federal standards.

#### **Jobs Impact**

The readoption of these rules will not have any impact upon the number of persons employed by racetracks, by the casinos, by Racing Commission licensees, or other employers. The operation of the Commission's rules subject of the readoption, however, serve to create and generate jobs in New Jersey in a positive fashion.

### **Agriculture Industry Impact**

Because the Commission's rules governing horse racing set forth criteria related to the participation and qualification of horses to compete in New Jersey, they have a positive indirect impact on aspects of New Jersey's agriculture industry. This is because many horses which compete in racing in New Jersey are situated on farm lands in New Jersey, many of which farms are issued licenses by the Racing Commission. The availability of racing in this State, and the advantageous impact of the Commission's rules toward insuring the integrity, fairness and safe conduct of racing, indirectly serve to encourage the establishment of and maintenance of horse farms, as well as horse breeding facilities in New Jersey. Accordingly, while the proposed readoption will not present any new impact to agriculture, a readoption of the Racing Commission's rules regarding casino simulcasting beyond the September 9, 2008 expiration will result in continued benefits to the agriculture industry.

### **Regulatory Flexibility Analysis**

With respect to casino licensees, none of which qualifies as a small business under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., no regulatory flexibility analysis is required. Similarly, New Jersey racetrack permitholders, and the operator of the licensed hub facility, are not small businesses as defined under the Regulatory Flexibility Act and no regulatory flexibility analysis is required as to them. To the extent that these rules impact any small businesses, that impact is due to the Legislature's decision to implement casino simulcasting and not to the implementation of these rules.

The rules in N.J.A.C. 13:72 require that suppliers, manufacturers and repairers of

simulcasting wagering equipment to casino licensees of hub facilities be licensed by the Casino Control Commission as gaming-related casino service industries. The Casino Control Commission and Racing Commission are unaware of any small businesses which currently would be affected by this requirement. However, even if there were, such licensure is statutorily required by the Casino Simulcasting Act and any such licensure cannot be exempted by rule.

Other enterprises conducting business with a casino licensee or hub facility with respect to casino simulcasting, as well as sending tracks, have vendor registration forms filed with the Casino Control Commission. Additionally, these vendor registrations are, for the most part, located outside of New Jersey. To the extent that the few registrations located in New Jersey are small businesses, no costs or compliance result since the vendor registration forms are filed by the casino licensee or hub facility on behalf of the enterprise. However, vendors of the hub facility which may constitute small businesses, as well as the hub facility and its employees, are additionally subject to the license jurisdiction of the Racing Commission. The hub facility houses the “totalisator” and generates the reports which are utilized to reconcile simulcast wagers with sending tracks and calculate payments due to the Racing Commission. It also performs other integral functions, such as locking the totalisator and conducting manual merges with sending tracks in the event of a transmission failure.



For these reasons, the licensing requirements and other controls imposed upon the hub facility and its vendors are not only amply warranted, but vitally necessary to the integrity of casino simulcasting.

### **Smart Growth Impact Statement**

The rules proposed for readoption are not anticipated to have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan as defined under Executive Order No. 4 (2002).

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:72.